

MARK W. ROBERTSON (S.B. #200220)
mrobertson@omm.com
O'MELVENY & MYERS LLP
7 Times Square
New York, NY 10036
Telephone: (212) 326-2000
Facsimile: (212) 326-2061

KELLY WOOD (S.B. #267518)
kwood@omm.com
O'MELVENY & MYERS LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660
Telephone: (949) 823 6900
Facsimile: (949) 823 6994

Attorneys for Defendant
American Airlines, Inc.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

ROBERT KINCHELOE, VONNA RUDINE,
SANDRA CHRISTAFFERSON, individually
and on behalf of other similarly situated persons,

Plaintiffs,

v.

AMERICAN AIRLINES, INC.,

Defendant.

Case No.: 5:21-cv-00515-BLF

**DEFENDANT AMERICAN AIRLINES,
INC.'S RESPONSE AND STATEMENT
OF NON-OPPOSITION TO
PLAINTIFFS' MOTION FOR
CONDITIONAL CERTIFICATION OF
COLLECTIVE ACTION CLAIM
PURSUANT TO 29 U.S.C. § 626(B) AND
29 U.S.C. § 216(B)**

Date: July 22, 2021
Time: 9:00 a.m.
Crtrm. 3
Judge: Hon. Beth Labson Freeman

1 Defendant American Airlines, Inc. (“American”) does not oppose Plaintiffs’ Motion for
2 Conditional Certification of Collective Action Claim (the “Motion”), except as to Plaintiffs’
3 notice, which Plaintiffs reference in their Motion but do not attach as an exhibit. As to the notice,
4 American requests that the Court either (1) permit American to file an opposition to object and/or
5 request changes to the notice if necessary once Plaintiffs file it, or (2) require the parties to meet
6 and confer as to the substance and form of the notice.

7 American expressly reserves all arguments in opposition to ultimately maintaining this
8 action as a class, collective, or representative action, and as to the merits of Plaintiffs’ claim and
9 their allegations in their First Amended Complaint. American also expressly reserves its rights to
10 raise any appropriate challenges to conditional certification under the Fifth Circuit standard if this
11 action is transferred to Texas, and if not, to move for decertification of this matter at the
12 appropriate time, in accordance with the two-step process outlined by the Ninth Circuit and this
13 Court. *See Campbell v. City of Los Angeles*, 903 F.3d 1090, 1117-18 (9th Cir. 2018); *Heath v.*
14 *Google Inc.*, 215 F. Supp. 3d 844, 859 (N.D. Cal. Oct. 5, 2016).

15 Dated: April 30, 2021

O’MELVENY & MYERS LLP
MARK W. ROBERTSON
KELLY WOOD

18 By: /s/ Mark W. Robertson
19 Mark W. Robertson

20 Attorneys for Defendant
21 American Airlines, Inc.

CERTIFICATE OF SERVICE

I, Mark W. Robertson, hereby certify that on April 30, 2021, I electronically filed the foregoing document using the CM/ECF system, which will send notification of such filing to all registered participants.

/s/ Mark W. Robertson
Mark W. Robertson